

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:21-cv-00171-RJC-WCM

ELECTROLYSIS PREVENTION)	
SOLUTIONS LLC,)	
)	
Plaintiff,)	ORDER
)	
v.)	
)	
DAIMLER TRUCK NORTH)	
AMERICA LLC,)	
)	
Defendant.)	
)	

This matter is before the Court on a “Joint Motion to Seal Documents Filed in Connection with the Parties’ Substantive Motions Pursuant to the Court’s Sealing Order at D.I. 203” (the “Motion to Seal,” Doc. 207).

I. Relevant Background

The Motion to Seal seeks leave to file certain documents associated with the following Substantive Motions under seal:

1. Plaintiff’s Motion to Strike and Exclude Evidence and Expert Opinions Regarding Alleged Noninfringing Alternatives as Untimely and Pursuant to Daubert (“Plaintiff’s Motion to Strike,” Doc. 159);
2. Defendant Daimler Truck North America LLC’s Omnibus Notice of Motions and Motions for Summary Judgment (“Defendant’s Motion for Summary Judgment,” Doc. 162);
3. Defendant Daimler Truck North America LLC’s Motion to Exclude Testimony and Evidence about Resistivity and Benchtop Testing (“Motion to Exclude Re: Resistivity and Benchtop Testing,” Doc. 163);

4. Defendant Daimler Truck North America LLC's Motion to Exclude Certain Opinions of Mr. Stephen Holzen ("Motion to Exclude Re: Holzen," Doc. 164);
5. Plaintiff's Motion for Partial Summary Judgment of Validity ("Plaintiff's Motion for Summary Judgment," Doc. 165); and
6. Defendant Daimler Truck North America LLC's Motion to Strike Untimely Expert Opinions ("Defendant's Motion to Strike," Doc. 186).

II. Discussion

In evaluating a motion to seal, the Court must "(1) provide public notice of the request to seal and allow interested parties a reasonable opportunity to object, (2) consider less drastic alternatives to sealing the documents, and (3) provide specific reasons and factual findings supporting its decision to seal the documents and for rejecting the alternatives." Ashcraft v. Conoco, Inc., 218 F.3d 288, 302 (4th Cir. 2000).

Additionally, Local Civil Rule 6.1 states that "there is a presumption under applicable common law and the First Amendment that materials filed in this Court will be filed unsealed." LCvR 6.1(a). To support sealing, a party must set forth, among other things: (1) a non-confidential description of the material sought to be sealed; (2) a statement indicating why sealing is necessary and why there are no alternatives to filing under seal; and (3) supporting statutes, case law, or other authority. LCvR 6.1(c).

Here, the public has been provided with notice of the Motion to Seal as it has been pending since September 29, 2023. The parties assert that sealing

of these materials is necessary to protect the confidential commercial, engineering, and financial information of Plaintiff, Defendant, and third parties. The parties have filed redacted versions of most of the documents they seek to seal and advise that none of the proposed redactions are opposed by the parties or any third parties.

The parties have submitted a chart relative to each Substantive Motion outlining the proposed treatment of the Subject Documents. See Doc. 207 at 6-25.¹ Based on that chart, the parties seek to seal the following:

1. Regarding Plaintiff's Motion to Strike (Doc. 159)

Document	Sealed Version	Redacted Version
March 6, 2023 Supplemental Responses to First Set of Interrogatories	Doc. 161-2	Doc. 208
June 8, 2023 Rebuttal Expert Report of Dr. Wendy Sanders	Doc. 161-3	Doc. 208-1
June 8, 2023 Rebuttal Expert Report of Keith R. Ugone, Ph.D.	Doc. 161-4	Doc. 208-2
Deposition transcript of Dr. Ugone	Doc. 161-5	Doc. 208-3
Defendant's Memorandum in Opposition	Doc. 182	Doc. 207-14
April 28, 2023 Opening Report of Michael Nranian, P.E.	Doc. 182-1	Doc. 207-15
April 28, 2023 [Corrected] Affirmative Expert Report of Stephen A. Holzen	Doc. 182-2	Doc. 207-16

¹ The undersigned is compelled to note that the parties' Motion to Seal seeks the sealing of certain documents multiple times.

August 18, 2023 Supplemental Expert Report of Mr. Nranian	Doc. 182-3	Doc. 207-17
Excerpts from the March 13, 2023 deposition transcript of Mike Dawson	Doc. 182-4	Doc. 207-18
Excerpts from the March 16, 2023 deposition of Hermann Sekler	Doc. 182-5	Doc. 207-19
Plaintiff's Reply	Doc. 191	Doc. 214

2. Regarding Defendant's Motion for Summary Judgment (Doc. 162)

Document	Sealed Version	Redacted Version
Excerpt from the Opening Report of Mr. Nranian	Doc. 169-1	Doc. 207-2
Excerpt from the Rebuttal Report of Dr. Sanders	Doc. 169-2	Doc. 207-3
Excerpt from the deposition of Mr. Sekler	Doc. 169-4	Doc. 207-4
Declaration of Thomas Marz	Doc. 169-5	Doc. 207-5
Spectra Premium's "Heavy Duty Presentation"	Doc. 169-3	None
Plaintiff's Response in Opposition to Defendant's Motion for Summary Judgment	Doc. 177	Doc. 210
Declaration of Mr. Henri Paul Boyer	Doc. 177-1	Doc. 210-1
Excerpts from the deposition of Mr. Sekler	Doc. 177-2	Doc. 210-2
Declaration of Dr. Rockstraw with Opening Report of Dr. Rockstraw	Doc. 177-5	Doc. 210-3
Declaration of Mr. Nranian with Opening Report of Mr. Nranian	Doc. 177-6	Doc. 210-4

Defendant's Reply in Support of Defendant's Motion for Summary Judgment	Doc. 193	Doc. 207-26
Exhibit 19 ("Tube Support") from the deposition of Mr. Sekler	Doc. 177-3	None
Exhibit 10 ("Support – Pipe") from Mr. Sekler's deposition	Doc. 177-4	None

3. Regarding the Motion to Exclude Re: Resistivity and Benchtop Testing
 (Doc. 163)

Document	Sealed Version	Redacted Version
Excerpt of the Rebuttal Report of Dr. Sanders	Doc. 169-13	Doc. 207-9
Excerpt of the Report of Dr. Rockstraw	Doc. 169-14	Doc. 207-10
Excerpt of Opening Report of Mr. Nranian	Doc. 169-17	Doc. 207-11
Excerpt of Report of Neil Burns	Doc. 169-18	Doc. 207-12
Excerpt of the deposition of Mr. Sekler	Doc. 169-19	Doc. 207-13
Opening Report of Mr. Nranian	Doc. 176-1	Doc. 211
Opening Report of Dr. Rockstraw	Doc. 176-2	Doc. 211-1

4. Regarding Defendant's Motion to Exclude Re: Holzen (Doc. 164)

Document	Sealed Version	Redacted Version
Defendant's Memorandum in Support	Doc. 169-9	Doc. 207-6
Excerpt of the Report of Mr. Holzen	Doc. 169-10	Doc. 207-7
Daimler Trucks North America Engineering Change Form	Doc. 169-11	Doc. 207-8
Plaintiff's Opposition	Doc. 173	Doc. 212
Report of Mr. Holzen	Doc. 173-1	Doc. 212
Defendant's Reply	Doc. 194	Doc. 207-27

5. Regarding Plaintiff's Motion for Summary Judgment (Doc. 165)

Document	Sealed Version	Redacted Version
Plaintiff's Memorandum in Support	Doc. 168	Doc. 209
Excerpt of the Opening Report of Dr. Rockstraw	Doc. 168-1	Doc. 209-1
Excerpt of the Opening Report of Mr. Nranian	Doc. 168-2	Doc. 209-2
Rebuttal Report of Mr. Nranian	Doc. 168-3	Doc. 209-3
Supplemental Expert Report of Dr. Nranian	Doc. 168-4	Doc. 209-4
Opening Report of Dr. Sanders	Doc. 168-5	Doc. 209-5
Appendix A, Invalidity Chart	Doc. 168-6	Doc. 209-6

Excerpt of the deposition of Mr. Sekler	Doc. 168-7	Doc. 209-7
Invalidity Chart	Doc. 168-8	Doc. 209-8
Supplemental Report of Dr. Sanders	Doc. 168-20	Doc. 209-9
Mahle Material Standard	Doc. 168-9	None
Behr Quality Standard	Doc. 168-10	None
Behr Quality Standard	Doc. 168-11	None
Behr Quality Standard	Doc. 168-12	None
Behr Quality Standard	Doc. 168-13	None
Behr Quality Standard	Doc. 168-14	None
Behr Material Standard	Doc. 168-15	None
Behr Material Standard	Doc. 168-16	None
Mahle Material Standard	Doc. 168-17	None
Exhibit 19 (“Tube Support”) from the deposition of Mr. Sekler	Doc. 168-18	None
Mahle Bill of Material	Doc. 168-19	None
Defendant’s Opposition	Doc. 184	Doc. 207-20
Declaration of Mr. Sekler	Doc. 184-1	Doc. 207-21
Declaration of Dr. Sanders	Doc. 184-2	Doc. 207-22
Mahle Bill of Material	Doc. 184-3	None
Mahle Bill of Material	Doc. 184-4	None
Plaintiff’s Reply	Doc. 190	Doc. 215

6. Regarding Defendant's Motion to Strike (Doc. 186)

Document	Sealed Version	Redacted Version
Supplemental Expert Report of Mr. Nranian	Doc. 188	Doc. 207-23
Supplemental Expert Report of Dr. Sanders	Doc. 188-1	Doc. 207-24
Excerpts from the Rebuttal Report of Mr. Nranian	Doc. 188-2	Doc. 207-25
Plaintiff's Opposition	Doc. 201	Doc. 213
Declaration of Austin Ginnings	Doc. 201-1	Doc. 213-1
Full deposition transcript of Mr. Nranian	Doc. 201-2	Doc. 213-2
Defendant's Reply	Doc. 205	Doc. 207-28
Rebuttal Expert Report of Dr. Sanders	Doc. 205-1	Doc. 207-29

Having considered the parties' submission, the public's interest in access to the subject documents, and alternatives to sealing, the undersigned will grant the Motion to Seal (Doc. 207). This ruling, however, may be subject to reconsideration upon an appropriate motion to unseal or at a later stage of this matter, including summary judgment or trial.

IT IS HEREBY ORDERED THAT:

1. The Motion to Seal is **GRANTED**, and Clerk is respectfully directed to continue to maintain the sealed versions of the documents listed in the charts above under seal until further order of the Court.

2. The undersigned reads the parties' submission to indicate that the following documents may be unsealed: Doc. 161, Doc. 161-1, 169, 169-6, 169-7, 169-8, 177-7, 177-8, 198, 169-12, 169-15, 169-16, 176, 195, 173-2. Accordingly, these documents shall remain provisionally sealed through and including October 30, 2023. In the event no motion to seal these documents is filed by that date, they will be unsealed.

Signed: October 23, 2023



W. Carleton Metcalf
United States Magistrate Judge 